

NEBRASKA ADMINISTRATIVE CODE

TITLE 270 - NEBRASKA BOARD OF PAROLE

Chapter 4 - Parole Consideration

001 The chief executive officer of a facility shall regularly report all good time and all forfeitures, withholdings, and restorations of good time to the director. On the basis of such report, the director shall inform the board and the administrator of all committed offenders who are expected to become eligible for release on parole within the next three months.

002 Eligibility for release on parole:

002.01 Every committed offender shall be eligible for release on parole upon completion of the minimum term less good time.

002.02 Every committed offender sentenced to consecutive terms, whether received at the same time or at any time during the original sentence, shall be eligible for release on parole when the offender has served the total of the minimum terms, less good time. The maximum terms shall be added to compute the new maximum term which, less good time, shall determine the date when discharge from the custody of the state becomes mandatory.

003 Parole Hearings:

003.01 Every committed offender shall be interviewed and have his or her record reviewed by two or more members of the Board of Parole or a person designated by the board within 60 days before the expiration of his or her minimum term less any reductions. If, in the opinion of the reviewers, the review indicates the offender is reasonably likely to be granted parole, the Board of Parole shall schedule a public hearing before a majority of its members. At such hearing the offender may present evidence, call witnesses, and be represented by counsel. If, in the opinion of the reviewers, the review indicates the offender should be denied parole, the offender may request an additional review by a majority of the members of the board. A review by the majority of the members of the board may be conducted not more than once annually. Any hearing and review shall be conducted in an informal manner, but a complete record of the proceedings shall be made and preserved.

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003.02 The Board shall render its decision regarding the committed offender's release on parole within a reasonable time after the hearing or review. The decision shall be by majority vote of the Board. The decision shall be based on the entire record before the Board, which shall include the opinion of the person who conducted the review. If the Board shall deny parole, written notification listing the reasons for such denial and the recommendations for correcting deficiencies which cause the denial shall be given to the committed offender within thirty days following the hearing.

003.03 If the board fixes the release date, such date shall be not more than six months from the date of the committed offender's parole hearing, or from the date of last reconsideration of his or her case, unless there are special reasons for fixing a later release date.

003.04 If the Board defers the case for later reconsideration, the committed offender shall be afforded a parole hearing at least once a year until a release date is fixed. The Board may order a reconsideration or a rehearing of the case at any time.

003.05 The release of a committed offender on parole shall not be upon the application of the offender, but by the initiative of the Board of Parole. No application for release on parole made by a committed offender or on his or her behalf shall be entertained by the Board. Nothing herein shall prohibit the Director of Correctional Services from recommending to the Board that it consider an individual offender for release on parole.

004 Preparing for a parole hearing:

004.01 Each committed offender eligible for parole shall, in advance of his parole hearing, have a parole plan in accordance with the rules of the Board of Parole. Whenever the Board determines that it will facilitate the parole hearing, it may furnish the offender with any information and records to be considered by it at the hearing.

004.02 An offender shall be permitted to advise with any person whose assistance he desires, including his own legal counsel, in preparing for a hearing before the board.

005 The Board of Parole and its employees shall have access at all reasonable times to any committed offender over whom the Board may have jurisdiction and shall have means provided for communication with and observing the committed offender. The Board shall be furnished such reports as it may require concerning the conduct and character of any committed offender and any other information deemed pertinent by the Board in determining whether a committed offender should be paroled.

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006 Deferment of Parole:

006.01 Whenever the Board of Parole considers the release of a committed offender who is eligible for release on parole, it shall order his release unless it is of the opinion that his release should be deferred because:

006.01A There is a substantial risk that he will not conform to the conditions of parole.

006.01B His release would depreciate the seriousness of his crime or promote disrespect for law.

006.01C His release would have a substantially adverse effect on institutional discipline.

006.01D His continued correctional treatment, medical care, or vocational or other training in the facility will substantially enhance his capacity to lead a law-abiding life when released at a later date.

006.02 In making its determination regarding a committed offender's release on parole, the Board of Parole shall take into account each of the following factors:

006.02A The offender's personality, including his maturity, stability, sense of responsibility, and any apparent development in his personality which may promote or hinder his conformity to law.

006.02B The adequacy of the offender's parole plan.

006.02C The offender's ability and readiness to assume obligations and undertake responsibilities.

006.02D The offender's intelligence and training.

006.02E The offender's family status and whether he has relatives who display an interest in him or whether he has other close and constructive associations in the community.

006.02F The offender's employment history, his occupational skills, and the stability of his past employment.

006.02G The type of residence, neighborhood, or community in which the offender plans to live.

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006.02H The offender's past use of narcotics, or past habitual and excessive use of alcohol.

006.02I The offender's mental or physical makeup, including any disability or handicap which may affect his conformity to law.

006.02J The offender's prior criminal record, including the nature and circumstances, recency, and frequency of previous offenses.

006.02K The offender's attitude toward law and authority.

006.02L The offender's conduct in the facility, including particularly whether he has taken advantage of the opportunities for self-improvement, whether he has been punished for misconduct within six months prior to his hearing or reconsideration for parole release, whether any reductions of term have been forfeited, and whether such reductions have been restored at the time of hearing or reconsideration.

006.02M The offender's behavior and attitude during any previous experience of probation or parole and the recency of such experience.

006.02N Any other factors the board determines to be relevant.

007 Before making a determination regarding a committed offender's release on parole, the Board of Parole shall consider the following:

007.01 A report prepared by the institutional caseworkers relating to his personality, social history and adjustment to authority, and including any recommendations which the staff of the facility may make.

007.02 All official reports of his prior criminal record, including reports and records of earlier probation and parole experiences.

007.03 The presentence investigation report.

007.04 Recommendations regarding his parole made at the time of sentencing by the sentencing judge.

007.05 The reports of any physical, mental, and psychiatric examinations of the offender.

007.06 Any relevant information which may be submitted by the offender, his attorney, the victim of his crime, or by other persons.

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007.07 Such other relevant information concerning the offender as may be reasonably available.

STATUTORY AUTHORITY

83-1,109 through 83-1,115

OTHER AUTHORITY

Greenholtz v. Inmates (1979)